

AGREEMENT-JOINT USE

SCHOOL DISTRICT	APPLICATION NUMBER
COUNTY	PROJECT NAME

Agreement

(Under the Leroy F. Greene State School Building Lease-Purchase Law of 1976)

(Education Code Section 17052)

This Agreement, ("Agreement") is effective upon initial project approval by the State Allocation Board of the State of California ("Board") and is made and entered into pursuant to Chapter 12, Part 10, Division 1 of the Education Code (commencing with Section 17000 thereof) entitled the Leroy F. Greene State School Building Lease-Purchase Law of 1976, including any subsequent amendments thereto, ("Act"), by and between the Board and the School District or County Superintendent of Schools acting as a School District, as named above ("District").

Whereas, the District has filed an application for funding from the Board for construction of school facilities, as more fully set forth in the District's application as identified by the Application or Project number set forth above which is incorporated by reference as part of this agreement; and

Whereas, the District either is the owner of the site or is the lessee of a lease from the owner of the site, the term of which lease is at least equal to the term of this Agreement; and

Whereas, the District will, when it has in its possession plans and specifications approved pursuant to Education Code Sections 17024 and 17025, and has filed an application for the construction of school buildings and related facilities to be constructed as identified by the Application or Project number set forth above; and

Whereas, the application includes the acquisition of certain furniture and equipment as approved by the Board; and

Whereas, the construction on the site and the acquisition of the furniture and equipment as described in the previous paragraphs of this Agreement, shall hereinafter be referred to as the "Project"; and

Whereas, the Board has agreed to provide funds to the District, subject to the conditions contained herein and in the Act, said funds to be used, along with other funds available to the District, for the completion of the Project ("Funding");

Now, Therefore, in consideration of the above and the performance of mutual promises and agreements herein contained at the time and in the manner specified, the parties agree as follows:

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Item 1. Release of Funds

The release of State funds for a Joint Use Project which receives an Appointment by the Board is contingent up on the submission by the District of this Agreement

Item 2. Term

The term of this Agreement shall be forty (40) years from the date of the Notice of Completion of the Project, unless this Agreement is sooner terminated as provided in this Agreement or the Act.

Item 3. District Representative

The District shall appoint one or more persons of the District's staff as the "District's Representative" to act as a liaison between the District and the Board and to perform all acts required or contemplated under this Agreement. The District shall inform the Office of Public School Construction (OPSC) immediately of the name and title of its District Representative, and shall inform the OPSC, whenever there is a change in the name of its District Representative. In the event there is no District Representative appointed, then the District's Superintendent shall act as the District Representative.

Item 4. Availability of Funds

The District understands that this Agreement is contingent upon the availability of funds and that the board shall incur no costs or liability as a result of the approval given to this project by the Board until funding becomes available to apportion to this project and the apportionment is made. The District shall be solely responsible for any costs arising from this Project until such time as the Board shall apportion funds for this project. Further, to the extent the District proceeds with the project in advance of the apportionment, the District agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses caused by the District accruing or resulting to any person, firm or corporation furnishing or supplying financing.

Item 5. Responsibility and Indemnity

The District understands and acknowledges, that all contracts entered into as a result of this agreement are District contracts to which neither the State nor the Board is a party. The District shall be liable for all injuries, damages, debts or other liabilities caused by the District arising out of any contract entered into by the District as a result of this Agreement, and the Board shall not be liable for any such injuries, damages, debts or other liabilities caused by the district arising out of said contract(s). The Board shall be liable for all damages directly caused by the Board. The District shall indemnify and hold harmless the Board and its officers, agents and employees from any loss, or liability (including reasonable attorney's fees and costs) caused by the District arising out of or relating to any contract entered into by the District as result of this Agreement.

Item 6. Reimbursement of Costs Incidental to the Preparation of Plans

All costs necessary and incidental to the preparation of plans, including, but not limited to, surveys, testing, architects' fees, and legally required fees, may be paid from State funding if such expenditures are deemed eligible by the Board.

Item 7. Construction of the Project or Other Improvements

The District shall deliver to the Executive Officer copies of all plans and specifications for the Project. The District shall not commence construction of the Project, nor make or cause to be made any other improvement upon the Site, without the prior written approval of the Board, unless otherwise authorized by the Act. The District shall comply with the Act and regulations promulgated thereunder regarding the construction and completion of the Project. The District shall use the plans and specifications for construction of the Project that is approved by the Board. All costs and fees necessary and incidental to (1) the inspection of the construction on the Site for the Project, and (2) construction testing, including but not limited to materials testing, may be paid from the funding.

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Item 8. Signage Language

The District shall cause to be erected signage on the Project Site in the manner specified by the Board. The cost of the signage shall be an eligible project cost within the building cost allowance. The signage shall remain in place until the dedication of the project.

Item 9. Notification of Pending or Threatened Litigation

If upon the date of execution of this Agreement there is any litigation pending or threatened relating to the validity of this Agreement, the financing of the Project or the construction of the Project, the District shall notify the Board and the District shall not obligate any portion of the funding, nor will funding be released without the prior written approval of the Executive Officer.

Item 10. Changes in Plans and Specifications

Once the Board has accepted the plans and specifications for the Project, the District shall not change the plans and specifications without the notification of the Board. When required by Education Code Sections 17024 and 17025, any such changes also shall be subject to the approval of the California Department of General Services and the Department of Education.

Item 11. Categories of Allowable Costs

Once the board has apportioned funds for the Project, the District may not request additional funds to be paid by the Board. The funding shall be reduced pursuant to Board policy by such amount not expended as determined by an audit of allowable costs.

Item 12. Changes to the Project

During the term of this Agreement, the District shall not make any changes to the facilities that are inconsistent with the Project's original purpose without notification of the Board.

Item 13. Assessments

During the term of this Agreement, the District shall be liable for and discharge at the sole cost and expense of the District any assessments validly made against the Site. Assessments resulting from the completion of the Project may be paid from the funding apportioned.

Item 14. Repairs, Renewals or Replacements

During the term of this Agreement, the District, at the sole cost and expense of the District shall maintain the Project in good and safe working order and condition and shall manage, operate, and maintain the Project, including without limitation, security service, janitor service, grounds-keeping, power, gas, telephone, light, heating, air conditioning, water and all other utility services. In the event the Project requires repairs, renewals, replacements as a result of damages from any cause, casualty, or otherwise, the District at the sole cost and expense of the District shall make the same.

Item 15. Liens, Charges and Encumbrances

During the term of this Agreement, at the sole cost and expense of the District, the District shall keep the Site clear of all liens, charges and encumbrances, except any arising as required for easements for utilities or rights-of-way.

Item 16. Access to Premises

During the term of this Agreement, the Board and its designees shall have the right to enter the school site and all buildings thereon during reasonable business hours.

AGREEMENT-JOINT USE**Item 17. Sublease or Assignment of Site; Use of Site**

During the term of this Agreement, the District shall not, without the prior written approval of the Board, sublet or assign the Site or any portion thereof, or grant any use thereof that is not revocable on 30 days or less notice. The District shall permit no use of the Site, which is in violation of law, including the Act.

Item 18. Compliance with the Act

During the term of this Agreement, the District shall comply with all applicable terms of the Act.

Item 19. Insurance

During the period of construction of the Project, the District shall insure the Project is covered during the course of construction within [builders' risk] insurance policy provided by an admitted insurance company, which cost shall be paid from the funding. Immediately following acceptance of the Project from the contractor, the District at the sole cost and expense of the district, shall provide a policy or policies of insurance for the benefit of the District and the Board, both of whom shall be insured, including self insurance, from an admitted insurance company insuring against (1) loss or damage, resulting from fire, lightning, vandalism, malicious mischief, and such other perils ordinarily defined as extended coverage, and (2) such additional risks as the Board and District may agree should be insured against in such amounts and under such provisions as are satisfactory to each, provided that they shall provide that payment of claims that satisfy the State's interest shall be made solely to the Board for the purposes described in this Agreement. Such policies shall be maintained during the term of this Agreement. During the term of this Agreement, the District, at the sole cost and expense of the District, also shall provide and keep in force public liability and property damage policies protecting both the Board and the District under such provisions and in such amounts as are satisfactory to each. The District agrees that the District shall obtain insurance adequate to protect the interests of the District and the Board consistent with this agreement.

Item 20. Condemnation

In the event the entire Site and the Project, or so much thereof as to render the same unusable for the purposes for which they were intended, is permanently taken under the power of eminent domain or sold to any government agency threatening to exercise such power, the proceeds thereof, whether for the Project or the Site, shall be paid to the Board, which shall use the proceeds to assist the District to build a similar project, if required, and if not required, shall be retained by the Board. In the event that less than all of the Site and Project shall be taken under the power of eminent domain or sold to any governmental agency threatening to exercise such power and the remainder is usable for the purposes intended, this Agreement shall not terminate. If the condemnation award is, or sale proceeds are sufficient to repair or restore the necessary portion of the Project, and both the Board and the District give their approval, the Board shall receive the entire condemnation award or sale proceeds, whether for the Site or Project, and shall repair or restore the Project in such manner as the parties may agree. Any balance of the condemnation award or sale proceeds remaining after the Project has been so repaired or restored shall be retained by the Board. Should the parties fail to concur in the practicability of restoring the project with such funds, or the District does not agree thereto, the entire proceeds from such condemnation, whether of the Site or Project, shall be retained by the Board. The District shall not sell or convey any interest in the Project to any entity threatening condemnation without the prior written approval of the Board.

AGREEMENT-JOINT USE**Item 21. Insurance and Condemnation**

In the event under either of the two preceding Items entitled Insurance and Condemnation the Board retains proceeds, if either (a) the District has participated in the Project by contributing fifty percent (50%) of the cost of the Project, or (b) after the completion of the Project the District has added improvements to the Site for which insurance or condemnation proceeds were paid, the value of which improvements exceed one percent (1%) of the Board's funding to the District, then such insurance or condemnation proceeds shall be divided between the Board and the District in proportion to either (a) fifty percent (50%) each to the Board and the District, or (b) the ratio of the amount of the funding as compared to the amount of improvements provided by the District after the completion of the project.

Item 22. Headings

The paragraph headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

Item 23. Severability

If any section, subsection, sentence, clause or phrase of this Agreement, or the application thereof to either party or any other person or circumstance, is for any reason held invalid, it shall be deemed severable and validity of the remainder of the Agreement or the application of such provision to the other party or to any person or circumstance shall not be affected thereby.

Item 24. Alteration or Amendment

No alteration of or amendment to this Agreement shall be deemed binding upon the parties unless the same has been executed thereby by the Board and the District in writing.

Item 25. Notices

All notices, requests or communications required or permitted to be given in this Agreement shall be in writing and, mailed or delivered to the respective party as follows:

Board: State Allocation Board
1130 K Street, Suite 400
Sacramento, CA 95814
Attention: Executive Officer

District: _____

_____, CA _____

Attn.: District Representative

The Board and the District may, by notice given hereunder, designate any further or different address to which subsequent notices and other communications shall be sent.

The laws of the State of California shall govern this Agreement, the interpretation thereof and any right or liability arising hereunder. Any action or proceeding to enforce or interpret any provision of this Agreement shall be brought, commenced or prosecuted in Sacramento County, California.

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AGREEMENT-JOINT USE

In Witness Whereof, the Board has caused this Agreement to be executed by its duly authorized officers and the District has caused this Agreement to be executed by the Trustees of said District and attested by the Clerk/Secretary of the District, as of the day and year set forth below.

STATE ALLOCATION BOARD

By _____ Date _____
Executive Officer

COUNTY SUPERINTENDENT OF SCHOOLS OR
SCHOOL DISTRICT BOARD OF TRUSTEES

By _____ Date _____
Chairperson/President

By _____ Date _____
Member

By _____ Date _____
Member

By _____ Date _____
Member

By _____ Date _____
Member

By _____ Date _____
Member